

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 29 of 1989

INCOME TAX REFERENCE No 30 of 1989

INCOME TAX REFERENCE No 198 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CORPMANDAL INVESTMENTS PVT. LTD.

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

MR RK PATEL for Petitioner

MR AKIL QURESHI with MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 11/01/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In all these references at the instance of the different assessees, the following question has been referred to us for our opinion in respect of assessment year 1983-84 (ITR No. 198/91) and assessment years 1982-83 and 1983-84 in respect of the other two references :-

"Whether on the facts and in the circumstances of the case, the Tribunal is right in law in coming to the conclusion that while computing deduction u/s. 80M of the Income-tax Act, 1961, relief allowed u/s. 80K of the Income-tax Act, 1961 should be deducted from the gross dividend income?"

2. At the hearing of the references, Mr RK Patel, learned counsel for the assessees and Mr Akil Qureshi, learned counsel for the revenue state that the controversy raised herein is concluded against the assessees by the decision of this Court in CIT vs. Sarabhai & Sons. (1995) 211 ITR 20 wherein this Court held that in computing deductions allowable under sub-section (1) of section 80M, the net dividend income should be reduced by the deductions allowable to the assessee under section 80 K, as provided in sub-section (2) of section 80M.

3. In view of the above decision, we answer the question in the affirmative i.e. in favour of the revenue and against the assessee.

All these references accordingly stand disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-